

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**PEOPLETNET COMMUNICATIONS
CORPORATION,**

Plaintiff,

VS.

R & L CARRIERS, INC.

Defendant.

No. 09-cv-144 (JRT/AJB)

**ANSWER AND COUNTERCLAIM OF DEFENDANT R&L CARRIERS, INC.
AND DEMAND FOR JURY TRIAL**

R&L Carriers, Inc. (“R&L”) for its Answer to PeopleNet Communications Corporation’s (“PeopleNet”) Complaint, hereby admits, denies, and avers as follows:

1. R&L denies the allegations set forth in Paragraph 1 of the Complaint for want of knowledge.
2. R&L admits the allegations set forth in Paragraph 2 of the Complaint.
3. In response to Paragraph 3 of the Complaint, R&L admits that the Complaint attempts to state a claim for declaratory relief and that a true and correct copy of United States Patent No. 6,410,078 (the “ ‘078 Patent”) is attached as Exhibit A. R&L denies all of the remaining allegations set forth in Paragraph 3 of the Complaint.
4. In response to Paragraph 4 of the Complaint, R&L admits that this Court has subject matter jurisdiction over this matter. R&L denies all of the remaining allegations set forth in Paragraph 4 of the Complaint.

5. In response to Paragraph 5 of the Complaint, R&L admits that it has transacted business within the State of Minnesota. R&L denies all of the remaining allegations set forth in Paragraph 5 of the Complaint.

6. In response to Paragraph 6 of the Complaint, R&L states that Paragraph 6 contains no factual allegations, and R&L repeats and incorporates by reference its previous admissions and denials as if fully set forth herein.

7. In response to Paragraph 7 of the Complaint, R&L admits that it is the owner of the '078 Patent. R&L denies all of the remaining allegations set forth in Paragraph 7 of the Complaint for want of knowledge.

8. In response to Paragraph 8 of the Complaint, R&L admits that PeopleNet's manufacture and sale of certain fleet management products and services, including the use of the same, constitute infringement of the '078 Patent and that R&L has demanded that PeopleNet cease and desist from engaging in any infringing activities. R&L denies all of the remaining allegation set forth in Paragraph 8 of the Complaint.

9. R&L denies the allegations set forth in Paragraph 9 of the Complaint.

10. In response to Paragraph 10 of the Complaint, R&L admits that PeopleNet is seeking the relief stated in said paragraph.

11. In response to Paragraph 11 of the Complaint, R&L states that Paragraph 11 contains no factual allegations, and R&L repeats and incorporates by reference its previous admissions and denials as if fully set forth herein.

12. R&L denies the allegations set forth in Paragraph 12 of the Complaint.

13. In response to Paragraph 13 of the Complaint, R&L admits that PeopleNet is seeking the relief set forth in said paragraph.

14. R&L denies each and every allegation set forth in the Complaint not specifically admitted herein as true.

FIRST AFFIRMATIVE DEFENSE

R&L asserts the affirmative defense of PeopleNet's infringement of the '078 Patent.

SECOND AFFIRMATIVE DEFENSE

R&L asserts the affirmative defense that the '078 Patent is valid and enforceable, and was duly and legally issued by the U.S. Patent and Trademark Office.

THIRD AFFIRMATIVE DEFENSE

R&L reserves the right to amend this Answer to assert any additional defenses that may become apparent through discovery or otherwise.

COUNTERCLAIM FOR PATENT INFRINGEMENT

R&L states the following for its counterclaim against PeopleNet:

Nature of the Action

1. This is an action for patent infringement in violation of 35 U.S.C. § 271(b) and (c).

Jurisdiction and Venue

2. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because PeopleNet initiated a lawsuit in this judicial district against R&L on the issues to be determined by this Counterclaim. Venue is also appropriate in this judicial district pursuant to 28 U.S.C. §§ 1391(d) and 1400(b).

The Parties

4. R&L is a corporation organized and existing under the laws of the State of Ohio, and has its principal place of business at 600 Gillam Road, Wilmington, Ohio 45177.

5. Upon information and belief, PeopleNet is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business at 1107 Hazeltine Boulevard, Suite 350, Chaska, Minnesota 55318.

The Infringed Patent

6. The United States Patent and Trademark Office duly and legally issued United States Patent No. 6,401,078 B1 (“the ‘078 Patent”) entitled “Bill of Lading Transmission and Processing System for Less Than a Load Carriers” on June 4, 2002. A copy of the ‘078 Patent is attached as Exhibit A.

7. The ‘078 Patent claims a process directed to the transfer of shipping documentation for a package (freight) to a processing center. In particular, documentation for a package is scanned and transmitted wirelessly to a remote processing center. The processing center then prepares a loading manifest that includes the package, prior to the package being removed from the transporting vehicle.

8. R&L owns all right, title and interest in the ‘078 Patent via assignment.

Actions Giving Rise to this Complaint

9. PeopleNet is a mobile communications and onboard computing provider for its clients in the transportation industry.

10. Upon information and belief, PeopleNet provides its clients with “handheld/portable solutions for wireless proof-of-delivery and inventory management.”

11. Specifically, PeopleNet markets a g3 Onboard Computing System (“g3”). According to PeopleNet’s website, the g3 provides “mobile communications, onboard computing and fleet management in one powerful platform.” The g3 is a “self-contained system in a ruggedized box” that pairs with a scanning device that captures “bill-of-lading form information, cargo bar code information or other [information] through an in-cab tethered option.”

12. PeopleNet promotes the g3 on its website as enabling “in-cab scanning and faxing and in-cab receipt and delivery of scanned or imaged documents [which] increases velocity of billing information to the back office.”

13. On or about January 7, 2009, R&L sent PeopleNet a cease and desist letter regarding the sale of the g3 (“Cease and Desist Letter”). The Cease and Desist Letter advised PeopleNet that R&L is the owner of the ‘078 Patent, and enclosed a copy of the ‘078 Patent. The Cease and Desist Letter informed PeopleNet that R&L was aware that PeopleNet was “promoting the use of the device/application to motor carriers to remotely transmit shipping documents from a vehicle to a remote processing facility.” After advising PeopleNet that R&L aggressively protects its valuable intellectual property rights, the Cease and Desist Letter requested that PeopleNet provide R&L with sufficient

information regarding PeopleNet's product to allow R&L to dispel its concerns of infringement.

14. PeopleNet did not respond in writing to the Cease and Desist Letter, and, instead, filed its Declaratory Judgment Action against R&L on or about January 22, 2009.

15. Thus, upon information and belief, PeopleNet is contributing to and actively inducing the infringement of the '078 Patent by marketing and selling the g3, and encouraging motor carriers to remotely transmit shipping documents from onboard a motor vehicle to a remote processing facility. There, a loading document is prepared that includes the further transport of goods on another vehicle. PeopleNet does so without leave or license of R&L, and in violation of R&L's rights.

COUNT I—CONTRIBUTORY INFRINGEMENT

16. R&L repeats and realleges the allegations contained in paragraphs 1-15 above as if fully set forth herein.

17. Upon information and belief, PeopleNet knowingly sells and offers to sell the g3 to customers who use them in conjunction with other applications and processes, and in a manner that infringes on the patented process claimed in the '078 Patent. PeopleNet's conduct amounts to contributory infringement in violation of 35 U.S.C. § 271(c).

18. Upon information and belief, PeopleNet has profited and will continue to profit from contributing to the infringement of the '078 Patent.

19. PeopleNet's actions with regard to contributing to the infringement of the '078 Patent has caused and will continue to cause R&L substantial and irreparable injury,

for which R&L is entitled to receive injunctive relief and adequate compensatory damages.

20. Further, the actions of PeopleNet with regard to contributing to the infringement of the '078 Patent are willful such that R&L is entitled to treble damages under 35 U.S.C. § 284.

COUNT II—ACTIVE INDUCEMENT OF INFRINGEMENT

21. R&L repeats and realleges the allegations contained in paragraphs 1-20 above as if fully set forth herein.

22. Upon information and belief, PeopleNet knowingly encourages and intends for its customers to use the g3 in conjunction with other applications and processes, and in a manner that infringes on the patented process claimed in the '078 Patent. PeopleNet's conduct amounts to active inducement of infringement in violation of 35 U.S.C. § 271(b).

23. Upon information and belief, PeopleNet has profited and will continue to profit from actively inducing the infringement of the '078 Patent.

24. The actions of PeopleNet with regard to actively inducing the infringement of the '078 Patent has caused and will continue to cause R&L substantial and irreparable injury, for which R&L is entitled to receive injunctive relief and adequate compensatory damages.

25. Further, the actions of PeopleNet with regard to actively inducing the infringement of the '078 Patent are willful such that R&L is entitled to treble damages under 35 U.S.C. § 284.

Demand for Relief

WHEREFORE, R&L respectfully requests that this Court enter judgment as to both counts as follows:

A. Declare that R&L is the owner of the '078 Patent and that the '078 Patent is valid and enforceable;

B. Preliminarily and permanently enjoin PeopleNet, its employees and agents, and any others acting in concert with PeopleNet, from contributing to and/or actively inducing the infringement of the '078 Patent;

C. Award R&L its damages resulting from PeopleNet's contribution to and active inducement of the infringement of the '078 Patent;

D. Award R&L treble damages pursuant to 35 U.S.C. § 284 as a result of PeopleNet's willfulness in contributing to and actively inducing the infringement of the '078 Patent;

E. Declare that the nature of PeopleNet's infringement is "exceptional" pursuant to 35 U.S.C. § 285 and award R&L its costs and attorney fees; and

F. Grant R&L such other relief as is just and proper.

Jury Demand

R&L demands a trial by jury to the extent permitted by applicable law.

/s/ Donald T. Campbell

Donald T. Campbell

Respectfully submitted,

/s/ Donald T. Campbell

Donald T. Campbell (MN ID #262171)

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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2009, I electronically filed the foregoing *Answer and Counterclaim of Defendant R&L Carriers* with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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